

**Texas Department of Insurance, Division of Workers' Compensation**

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1609

**MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION****PART I: GENERAL INFORMATION**

|  |                  |               |
|--|------------------|---------------|
| Requestor's Name and Address:<br><br>CROWN CHIROPRACTIC<br>2401 N. ARKANSAS AVE.<br>LAREDO, TX 78046 | MFDR Tracking #: | M4-09-8896-01 |
|  |                  |               |
|  |                  |               |
|  |                  |               |
| Respondent Name and Box #:<br><br>TEXAS MUTUAL INSURANCE CO<br>REP BOX #54                           |                  |               |
|  |                  |               |
|  |                  |               |

**PART II: REQUESTOR'S POSITION SUMMARY AND PRINCIPLE DOCUMENTATION**

Requestor's Position Summary: "At the time of exam Mr. Melanicedec (sic) continued to suffer pain to a compensable area. In the instance that the patient continues to suffer ongoing pain to not perform range of motion would be negligent. Given this fact of ongoing pain, a range of motion exam was needed to determine appropriate MMI/IR."

Principle Documentation:

1. DWC 60 package
2. Total Amount Sought - \$150.00
3. CMS 1500s
4. EOBs
5. DDE Narrative Report

**PART III: RESPONDENT'S POSITION SUMMARY AND PRINCIPLE DOCUMENTATION**

Respondent's Position Summary: "Texas Mutual argues that the requestor's documentation does not support the use of the ROM method over the DRE model..."

Principle Documentation:

1. Response to DWC 60
2. Reference material from the 4<sup>th</sup> Edition of The Guides to Permanent Impairment

**PART IV: SUMMARY OF FINDINGS**

| Eligible Dates of Service (DOS) | CPT Codes and Calculations | Part V Reference | Amount Ordered |
|---------------------------------|----------------------------|------------------|----------------|
| 03/12/2009                      | 99456-WP                   | 1-6              | \$0.00         |
| Total:                          |                            |                  |                |

**PART V: REVIEW OF SUMMARY, METHODOLOGY AND EXPLANATION**

Texas Labor Code Section 413.011(a-d), titled *Reimbursement Policies and Guidelines*, and 28 Texas Administrative Code (TAC) Section 134.204, titled *Medical Fee Guideline* effective for specific services on or after March 1, 2008, set out the reimbursement guidelines.

1. These services were denied by the Respondent with reason codes:
  - CAC-W4: NO ADDITIONAL REIMBURSEMENT ALLOWED AFTER REVIEW OF APPEAL/RECONSIDERATION.
  - CAC-W1: WORKERS COMPENSATION STATE FEE SCHEDULE ADJUSTMENT.
  - 891: THE INSURANCE COMPANY IS REDUCING OR DENYING PAYMENT AFTER RECONSIDERATION.
  - 790: THIS CHARGE WAS REIMBURSED IN ACCORDANCE TO THE TEXAS MEDICAL FEE GUIDELINE.
2. Rule 134.204(j)(4)(C) For musculoskeletal body areas, the examining doctor may bill for a maximum of three body areas.
  - (i) Musculoskeletal body areas are defined as follows:
    - (I) spine and pelvis;
    - (II) upper extremities and hands; and,
    - (III) lower extremities (including feet).
  - (ii) The MAR for musculoskeletal body areas shall be as follows.
    - (I) \$150 for each body area if the Diagnosis Related Estimates (DRE) method found in the AMA Guides 4th edition is used.
    - (II) If full physical evaluation, with range of motion, is performed:
      - (-a-) \$300 for the first musculoskeletal body area; and
      - (-b-) \$150 for each additional musculoskeletal body area.
3. The CPT code 99456-WP is billed by Requestor and documented in the RME narrative as a Maximum Medical Improvement (MMI) determination and Impairment Rating evaluation (IR) for lumbar spine. Documentation shows that the Requestor used the Lumbar Range of Motion worksheet to record measurements.
4. DWC utilizes reference materials published by TWCC on the subject addressing the issue previously.
  - The TWCC Medical Dispute Resolution Newsletter issue 4, dated March of 2005, under the section heading of Billing and Reimbursement for an Impairment Rating: ROM vs. DRE states, "If the ROM method was used in a DRE area, the narrative report should contain an explanation stating why the ROM method was necessary and how the ROM methodology assisted in calculating the IR." Also, "Some body areas, such as the back, primarily use the DRE method for assigning an IR. The DRE method determines the IR for a back injury by placing the injury into one of seven categories. If there is no clear category into which the injury falls, the ROM method may be used to provide evidence, (referred to as discriminators), to assist the evaluator in placing the injury into a specific category."
  - Also, the subsequent TWCC Medical Dispute Resolution Newsletter Issue 6, dated May 2005, under the section heading of Billing for Unnecessary Range of Motion Impairment Ratings goes further in stating that "if the ROM method is needed as a discriminator, the narrative report describing how the IR was calculated should include information indicating why the ROM method was necessary as a discriminator. Unnecessary use of the ROM method should not be billed by the evaluator or reimbursed by the carrier."
5. DWC Rule 130.1 indicates that the fourth edition of the AMA Guides (1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, or 4<sup>th</sup> printing, including corrections and changes as issued by the AMA prior to May 16, 2000) should be used for certifying exams after 10/15/01. The disputed date is 3/12/09 therefore the source reference will be the AMA Guides listed above.
  - The 4<sup>th</sup> edition, 3<sup>rd</sup> printing, states, "The evaluator assessing the spine should use the Injury Model, if the patient's condition is one of these listed in Table 70 (p. 108)...if none of the eight categories of the Injury Model is applicable, then the evaluator should use the Range of Motion Model."
  - DRE Category I for Lumbosacral represents "Complaints and Symptoms" for which "The patient has no significant clinical findings, no muscle guarding or history of guarding, no documentable neurological impairment, no significant loss of structural integrity on lateral flexion and extension roentgenograms, and no indication of impairment related to injury or illness." Per the narrative, "Mr. Hidalgo is, by definition, at clinical MMI. His ongoing objective exam findings do not warrant a permanent impairment."
6. Per the Newsletter clarification, the narrative submitted does not explain why the ROM method was necessary and how the ROM method assisted in calculating the IR. Also, using the AMA Guides defining Category I, the narrative shows that the examination fit into Category I which would necessitate a DRE rating. Therefore,

additional reimbursement is not recommended.

#### **PART VI: GENERAL PAYMENT POLICIES/REFERENCES**

Texas Labor Code Section. 413.011(a-d), Section. 413.031 and Section. 413.0311  
28 Texas Administrative Code Section. 134.1  
Texas Government Code, Chapter 2001, Subchapter G  
134.204,  
TWCC Medical Dispute Resolution Newsletter issue 4, dated March of 2005  
TWCC Medical Dispute Resolution Newsletter Issue 6, dated May 2005  
130.1

#### **PART VII: DIVISION DECISION**

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Section 413.031, the Division has determined that the Requestor is not entitled to **\$150.00** reimbursement for the services involved in this dispute.

#### **DECISION:**

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Auditor  
Medical Fee Dispute Resolution

October 30, 2009  
\_\_\_\_\_  
Date

#### **PART VIII: YOUR RIGHT TO REQUEST AN APPEAL**

Either party to this medical fee dispute has a right to request an appeal. A request for hearing must be in writing and it must be received by the DWC Chief Clerk of Proceedings within **20** (twenty) days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. **Please include a copy of the Medical Fee Dispute Resolution Findings and Decision** together with other required information specified in Division Rule 148.3(c).

Under Texas Labor Code Section 413.0311, your appeal will be handled by a Division hearing under Title 28 Texas Administrative Code Chapter 142 Rules if the total amount sought does not exceed \$2,000. If the total amount sought exceeds \$2,000, a hearing will be conducted by the State Office of Administrative Hearings under Texas Labor Code Section 413.031.

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**